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Paper Number 32 **OFFICE OF DIRECTOR**
GROUP 1800

In re Application of: :
Paul C. Anderson et al :
Serial No. 08/113,561 : **DECISION ON PETITION**
Filed: August 25, 1993 :
For: METHODS AND COMPOSITIONS :
FOR THE PRODUCTION OF STABLY
TRANSFORMED, FERTILE MONOCOT
PLANTS AND CELLS THEREOF

This is a decision on the petition under 37 CFR 1.181, filed October 23, 1995, to reverse the examiner's holding that the amendment to page 150 is new matter.

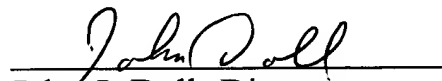
On January 3, 1995, applicants filed an amendment which deleted the last three words on page 149 and added text prior to the first word on page 150. The paper stated that the amendment was needed to complete the sentence ending on the first word of page 150 and that the amendment was supported by page 24 of the specification where almost exactly the same language was found. On April 17, 1995, a final Office action was mailed which objected to the text added at page 150 under 35 U.S.C. 132 as being new matter. On October 23, 1995, the present petition was timely filed.

Petitioner asserts again that the language of the text added at page 150 is almost exactly the same as that found on page 24 of the specification and does not change the invention described in the application. Since the added language is supported by the specification as originally filed and does not change the invention described in the application, petitioner concludes that the added text is not new matter.

A review of the file indicates that petitioner is correct. Furthermore, the added text is consistent with the text which follows the addition. Therefore, it is agreed that the text added at page 150 is not new matter. Accordingly, the petition is granted and the examiner's holding that the amendment to page 150 is

new matter is hereby withdrawn. The application will be forwarded to the examiner for further action in the application in a timely manner.

At this point it is noted that the petition was accompanied by \$130.00 as a petition fee. However, such a petition does not require a \$130.00 petition fee. Therefore, a refund of the \$130.00 may be obtained by directing a copy of this decision along with a written request for such a refund to the Office of Finance.



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